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Carlsbad draws state scrutiny of water quality

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Editor's note: This story begins an occasional series about how North County governments are doing in the statewide effort to stem the flow of pollutants from storm drains into creeks, lagoons and oceans

CARLSBAD ---- From its municipal yards to a housing development next to the Agua Hedionda Lagoon, Carlsbad is having trouble following the clean-water rules set by the state ---- and may be the first North County city taken to task by the state water quality board.

The enforcement staffers of the regional Water Quality Control Board brought their concerns with the coastal village to the board's attention, a move that may signal the beginning of enforcement, board officials say. That comes in the wake of notices of violation and enforcement letters issued to the city over problems at construction sites, its own yards and its policy-making.

City officials, including Councilman Matt Hall, say that the city is committed to clean-water rules, but that they are expensive and difficult to follow. Hall points to the city's multimillion-dollar reworking of the storm drains in downtown Carlsbad this year ---- one of the city's largest capital projects ever ---- as proof of its commitment.

"Our commitment is to comply and we are working aggressively toward meeting these tough rules," said Hall. "The task is monumental but, from day one, we've taken a proactive approach to keep ahead on those issues."

Scientists say that storm-drain runoff is the single largest source of water pollution in Southern California. The drains are a separate set of pipes from the sewage system, where wastes are processed and cleaned until they are nearly as clean as drinking water. Storm-drain runoff is not treated and drains directly into streams, lagoons and the ocean, carrying anything and everything that ends up on the ground. Runoff contains everything from fertilizers, plant waste and pesticides to metals and chemicals, to soap and feces.

The problem with controlling runoff is that it's very hard to identify the sources, which can be as simple as someone throwing a cigarette butt out of a car window or as hard to pinpoint as a bucket of detergent poured down a storm drain a couple of times a week.

The remedies can be seen everywhere: sandbag filters around the storm drains, straw bales between muddy hills and culverts, filters tucked into the storm drains to catch impurities, rules forbidding dumping trash and liquids directly into storm drains, and water departments enforcing lawn sprinkler limits. Some cities, including Encinitas, have gone as far as building treatment plants at the end of the system to catch bacteria and filth.

State rules hold the cities responsible for anything dumped in city limits ---- a system that cities and the county say is unfair.

In the two years since the regional board established new rules for storm-drain runoff, no municipalities have been fined by the board, although they could be fined at least \$10,000 a day. But that may change, regional board scientists said.

Already, the executive officer of the regional board has taken problems getting stormwater-rule compliance from Carlsbad to the board in a detailed report. Such a report can mark the beginning of an enforcement process, according to board Chairman John Minan.
Board gets more involved

Regional board enforcement staffers have stepped up their involvement with several real estate developments in Carlsbad because, staffers say, the city is not properly enforcing rules to control runoff into storm drains. Cities get the first shot at such enforcement actions, but the regional board can step in and take the developer and city to task for problems, said Chris Means, staff scientist for the board. That's what is happening in Carlsbad, where board records show the city has also been cited for runoff violations in at least one development.

One of the Carlsbad developments, Shea Homes at Kelly Ranch, was notified last week that it will be fined \$90,000 by the regional board for allegedly letting silt and sediment drain into the Agua Hedionda Lagoon. The lagoon is listed with the state as an impaired body of water that needs special protections because it is already choked with sediment and some chemicals.

According to city records, Carlsbad inspectors performed daily checks on the Kelly Ranch site, where hundreds of homes are being built on a 120-acre site at the east end of the lagoon. But, during six trips between December and March, regional board staffers found numerous violations of rules to control erosion and runoff, according to board records.

"A site next to that lagoon, which is sediment impaired, should have top-of-the-line, Cadillac (runoff) protections," said Means. "They had none the first time we went out. There were no erosion controls at all."

Shea, in a written statement submitted by Shea's director of marketing, Diane Rivera, did not address the problems at Kelly Ranch, but said the company is committed to the environment and to Carlsbad's Nature Center.

"Since 1881, Shea Homes has built its reputation on being a caring builder, and we are strongly committed to providing and maintaining a high quality of life throughout the communities in which we build," Rivera said in the statement. "We have long been involved in local environmental efforts and are dedicated to preserving the San Diego area's unique and important natural environment."

City defends Shea

Meanwhile, Carlsbad city staffers say that Shea is doing the best it can at the large construction site, and that stormwater runoff rules are vague and hard to enforce.

"I think Shea performed fairly well," said Conrad "Skip" Hammann, a deputy city engineer.

"You won't find any sediment from Kelly Ranch in the lagoon ---- there may be turbid water but you won't find any large particles that settle.

"I truly believe that Shea Homes, the city and the board have the same goals, it's just how it gets done," Hammann added. "They've done everything we asked, but when you have the intense rains like we've had, the (protections) aren't intended to handle 3 inches of rain in a day."

Regional board enforcement staffers see it differently. They say the city is letting Shea make a mess of the lagoon, according to staffers' reports.

City staffers say the city is trying to follow the storm-drain runoff rules put in place in February 2001. The rules are hard to follow, the staffers said.

"A lot of these things are very subjective," Hammann said. "No one disagrees with the importance but we aren't always in agreement with the regional board on the specifics."

City plans questioned

The regional board also issued notices of violation to the city this year for having filed an inadequate standard urban stormwater mitigation plan, and for its alleged failure to prevent discharges from the Shea site to the lagoon, according to documents.

The board staffers have also investigated complaints by residents who say the city wasn't protecting them from runoff from small developments next door, and the board staffers found merit in those complaints, staff members said. And, a written review of the jurisdictional plan for the city found significant deficiencies, including a lack of training in stormwater control practices for city building inspectors and a failure to create a list of practices to protect residential neighborhood storm drains from runoff.

Hammann said the city filed the stormwater plan but it hasn't been approved yet, despite a December deadline. All of the components of the plan were long in place in different ordinances, he added, but were not pulled together as a single plan.

Besides, he said, the city also must follow the California Coastal Commission rules for runoff, which Hammann said are the same as the regional board's.

And the city is working with worried neighbors to try to control runoff problems, but some of those problems are just part of living near a development, Hammann said.

"The Kelly Ranch core area was approved by the Coastal Commission," he said.

As to questions about city training of its inspector, Hammann said the training is constant and ongoing. He took 12 staff members for runoff control training Thursday and Friday, he said.

City yard problems

Inspections by the regional board's staffers at Carlsbad's city yards in May and October turned up problems and violations of the rules, only a few of which had been corrected in the five months before the second inspection.

During the October inspection of the yard at Impala Street, a carpenter who was beginning to build a cover for the oil recycling collection area told the board staffers he'd been called the day before to do the work, which was ordered in May, according to regional board records.

"The clean up and the deployment of the (runoff protections) were evidently performed the previous day at both the Impala and Orion Street yards," the Oct. 29 inspection report noted.

Further compounding Carlsbad's problems, a former employee hired as the environmental programs manager in July 2000 has written the regional board a letter saying the city is not committed to the runoff program.

"(The public works director) decided there wasn't a water quality problem in Carlsbad and that the regional board would have to prove all of the activities in the permit did anything to improve water quality," said the letter, which was written by Karen Vitulano in 2000.

Board staffers view the letter, written after Vitulano resigned, as an indication of what they see as the city's lack of commitment.

But, Assistant City Manager Joe Garuba said, the problem isn't lack of commitment. It's the lack of clear goals and the lack of funding.

"We are bending over backwards to meet their requirements but because we lack defined targets, it's hard to tell people the goals and objectives," Garuba said. "We see subjective requirements, personality based and interpretive enforcements; and it comes when we're already spending over \$1 million a year to try to meet standards that are impossible to meet."

The regional board's enforcement staffers, however, see Carlsbad losing ground.

"Two years ago, Carlsbad was going great on their construction sites but something there has changed and now they've got real problems," said Marc Alpert, the regional board's enforcement coordinator. "I'm concerned they don't fully appreciate the importance of complying with the Clean Water Act.

"It's very difficult to understand why Carlsbad, with all their beaches and their reliance on tourism, wouldn't want to comply," Alpert said.

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